

# SENATE MOTION

MR. PRESIDENT:

**I move** that Engrossed House Bill 1001(ss) be amended to read as follows:

- 1 Page 11, between lines 15 and 16, begin a new paragraph and insert:
- 2 "SECTION 10. IC 4-33-1-1 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This article
- 4 applies only to the following:
- 5 (1) Counties contiguous to Lake Michigan.
- 6 (2) Counties contiguous to the Ohio River.
- 7 (3) ~~Counties contiguous to Patoka Lake.~~ **A historic district that:**
- 8 **(A) is established under IC 36-7-11;**
- 9 **(B) is located in a county having a population of more than**
- 10 **nineteen thousand three hundred (19,300) but less than**
- 11 **twenty thousand (20,000); and**
- 12 **(C) consists solely of the real property owned by the**
- 13 **historic resort hotels located in:**
- 14 **(i) a town having a population of more than one**
- 15 **thousand five hundred (1,500) but less than two**
- 16 **thousand two hundred (2,200); and**
- 17 **(ii) a town having a population of less than one thousand**
- 18 **five hundred (1,500).**
- 19 SECTION 11. IC 4-33-2-7 IS AMENDED TO READ AS
- 20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. "Dock" means
- 21 the location where ~~an excursion~~ a riverboat moors for the purpose of
- 22 embarking passengers for and disembarking passengers from ~~a~~
- 23 ~~gambling excursion.~~ **the riverboat.**
- 24 SECTION 12. IC 4-33-2-11.5 IS ADDED TO THE INDIANA
- 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 26 [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. "Historic resort hotel"**
- 27 **means a structure originally built as a hotel that contained at least**
- 28 **three hundred (300) sleeping rooms on or before January 1, 1930.**
- 29 SECTION 13. IC 4-33-2-13.5 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS  
[EFFECTIVE UPON PASSAGE]: **Sec. 13.5. "Licensed operating agent" means a person licensed under IC 4-33-6.5 to operate a riverboat in a historic district described in IC 4-33-1-1(3) on behalf of the district's historic preservation commission.**

SECTION 14. IC 4-33-2-14.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS  
[EFFECTIVE UPON PASSAGE]: **Sec. 14.5. "Operating agent's license" means a license issued under IC 4-33-6.5 that allows a person to operate a riverboat in a historic district described in IC 4-33-1-1(3) on behalf of the district's historic preservation commission.**

SECTION 15. IC 4-33-2-15.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS  
[EFFECTIVE UPON PASSAGE]: **Sec. 15.7. "Permanently moored vessel" means a vessel located in a historic district described in IC 4-33-1-1(3) on which lawful gambling is authorized and licensed under this article. The term does not include a barge.**

SECTION 16. IC 4-33-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 16. "Person" means an individual, a sole proprietorship, a partnership, an association, a fiduciary, a corporation, a limited liability company, a historic district, or any other business entity.**

SECTION 17. IC 4-33-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 17. "Riverboat" means either of the following on which lawful gambling is authorized under this article:**

(1) A self-propelled ~~excursion~~ boat located in a county described in ~~IC 4-33-1-1~~ on which lawful gambling is authorized and licensed under this article: **IC 4-33-1-1(1) or IC 4-33-1-1(2) that complies with IC 4-33-6-6(a).**

(2) A permanently moored vessel located in a historic district described in **IC 4-33-1-1(3).**

SECTION 18. IC 4-33-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2. The commission shall adopt rules under IC 4-22-2 for the following purposes:**

- (1) Administering this article.
- (2) Establishing the conditions under which riverboat gambling in Indiana may be conducted.
- (3) Providing for the prevention of practices detrimental to the public interest and providing for the best interests of riverboat gambling.
- (4) ~~With respect to riverboats that operate on Patoka Lake, ensuring:~~
  - (A) the prevention of practices detrimental to the natural environment and scenic beauty of Patoka Lake; and
  - (B) compliance by licensees and riverboat patrons with the

- 1           ~~requirements of IC 14-26-2-5 and IC 14-28-1.~~
- 2           ~~(5)~~ (4) Establishing rules concerning inspection of riverboats and
- 3           the review of the permits or licenses necessary to operate a
- 4           riverboat.
- 5           ~~(6)~~ (5) Imposing penalties for noncriminal violations of this
- 6           article.
- 7           **(6) Establishing ethical standards regulating the conduct of**
- 8           **members of a historic preservation commission established**
- 9           **under IC 36-7-11-4.5 with regard to the selection and**
- 10           **licensure of an operating agent to operate a riverboat in a**
- 11           **historic district described in IC 4-33-1-1(3).**
- 12           SECTION 19. IC 4-33-4-3, AS AMENDED BY P.L.14-2000,
- 13           SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 14           UPON PASSAGE]: Sec. 3. (a) The commission shall do the following:
- 15           (1) Adopt rules that the commission determines necessary to
- 16           protect or enhance the following:
- 17           (A) The credibility and integrity of gambling operations
- 18           authorized by this article.
- 19           (B) The regulatory process provided in this article.
- 20           ~~(C) The natural environment and scenic beauty of Patoka~~
- 21           ~~Lake.~~
- 22           (2) Conduct all hearings concerning civil violations of this article.
- 23           (3) Provide for the establishment and collection of license fees
- 24           and taxes imposed under this article.
- 25           (4) Deposit the license fees and taxes in the state gaming fund
- 26           established by IC 4-33-13.
- 27           (5) Levy and collect penalties for noncriminal violations of this
- 28           article.
- 29           (6) Deposit the penalties in the state gaming fund established by
- 30           IC 4-33-13.
- 31           (7) Be present through the commission's inspectors and agents
- 32           during the time gambling operations are conducted on a riverboat
- 33           to do the following:
- 34           (A) Certify the revenue received by a riverboat.
- 35           (B) Receive complaints from the public.
- 36           (C) Conduct other investigations into the conduct of the
- 37           gambling games and the maintenance of the equipment that
- 38           the commission considers necessary and proper.
- 39           ~~(D) With respect to riverboats that operate on Patoka Lake,~~
- 40           ~~ensure compliance with the following:~~
- 41           ~~(i) IC 14-26-2-6.~~
- 42           ~~(ii) IC 14-26-2-7.~~
- 43           ~~(iii) IC 14-28-1.~~
- 44           (8) Adopt emergency rules under IC 4-22-2-37.1 if the
- 45           commission determines that:
- 46           (A) the need for a rule is so immediate and substantial that
- 47           rulemaking procedures under IC 4-22-2-13 through

IC 4-22-2-36 are inadequate to address the need; and

(B) an emergency rule is likely to address the need.

(b) The commission shall begin rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 to adopt an emergency rule adopted under subsection (a)(8) not later than thirty (30) days after the adoption of the emergency rule under subsection (a)(8).

SECTION 20. IC 4-33-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. **(a) This section does not apply to a riverboat located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).**

(b) The commission shall authorize the route of a riverboat and the stops, if any, that the riverboat may make.

SECTION 21. IC 4-33-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. **(a) This section does not apply to a riverboat located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000).**

(b) After consulting with the United States Army Corps of Engineers, the commission may do the following:

(1) Determine the waterways that are navigable waterways for purposes of this article.

(2) Determine the navigable waterways that are suitable for the operation of riverboats under this article.

~~(b)~~ (c) In determining the navigable waterways on which riverboats may operate, the commission shall do the following:

(1) Obtain any required approvals from the United States Army Corps of Engineers for the operation of riverboats on those waterways.

(2) Consider the economic benefit that riverboat gambling provides to Indiana.

(3) Seek to ensure that all regions of Indiana share in the economic benefits of riverboat gambling.

~~(4) Considering IC 14-26-2-6, IC 14-26-2-7, and IC 14-28-1, conduct a feasibility study concerning:~~

~~(A) the environmental impact of the navigation and docking of riverboats upon Patoka Lake; and~~

~~(B) the impact of the navigation and docking of riverboats upon the scenic beauty of Patoka Lake.~~

SECTION 22. IC 4-33-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. The commission shall annually do the following:

(1) Review the patterns of wagering and wins and losses by persons on riverboat gambling operations under this article.

(2) Make recommendations to the governor and the general assembly concerning whether limits on wagering losses should be imposed.

1       ~~(3) Examine the impact on the natural environment and scenic~~  
 2       ~~beauty of Patoka Lake made by the navigation and docking of~~  
 3       ~~riverboats.~~

4       SECTION 23. IC 4-33-6-1 IS AMENDED TO READ AS  
 5       FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The  
 6       commission may issue to a person a license to own one (1) riverboat  
 7       subject to the numerical and geographical limitation of owner's licenses  
 8       under this section, and IC 4-33-4-17. However, not more than eleven  
 9       (11) owner's licenses may be in effect at any time. Except as provided  
 10      in subsection (b), those eleven (11) licenses are as follows:

11       (1) Two (2) licenses for a riverboat that operates from the largest  
 12       city located in the counties described under IC 4-33-1-1(1).

13       (2) One (1) license for a riverboat that operates from the second  
 14       largest city located in the counties described under  
 15       IC 4-33-1-1(1).

16       (3) One (1) license for a riverboat that operates from the third  
 17       largest city located in the counties described under  
 18       IC 4-33-1-1(1).

19       (4) One (1) license for a city located in the counties described  
 20       under IC 4-33-1-1(1). This license may not be issued to a city  
 21       described in subdivisions (1) through (3).

22       (5) A total of five (5) licenses for riverboats that operate upon the  
 23       Ohio River from counties described under IC 4-33-1-1(2). The  
 24       commission may not issue a license to an applicant if the issuance  
 25       of the license would result in more than one (1) riverboat  
 26       operating from a county described in IC 4-33-1-1(2).

27       (6) One (1) license for a riverboat that operates ~~upon Patoka Lake~~  
 28       **from a county in a historic district** described under  
 29       IC 4-33-1-1(3).

30       (b) If a city described in subsection (a)(2) or (a)(3) conducts two (2)  
 31       elections under section 20 of this chapter and the voters of the city do  
 32       not vote in favor of permitting riverboat gambling at either of those  
 33       elections, the license assigned to that city under subsection (a)(2) or  
 34       (a)(3) may be issued to any city that:

35       (1) does not already have a riverboat operating from the city; and

36       (2) is located in a county described in IC 4-33-1-1(1).

37       SECTION 24. IC 4-33-6-2 IS AMENDED TO READ AS  
 38       FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A person  
 39       applying for an owner's license under this chapter must pay a  
 40       nonrefundable application fee to the commission. The commission  
 41       shall determine the amount of the application fee. **However, the**  
 42       **historic district described in IC 4-33-1-1(3) or a member of the**  
 43       **district's historic preservation commission is not required to pay**  
 44       **the fee charged under this subsection.**

45       (b) An applicant must submit the following on forms provided by  
 46       the commission:

47       (1) If the applicant is an individual, two (2) sets of the individual's

fingerprints.

(2) If the applicant is not an individual, two (2) sets of fingerprints for each officer and director of the applicant.

(c) The commission shall review the applications for an owner's license under this chapter and shall inform each applicant of the commission's decision concerning the issuance of the owner's license.

(d) The costs of investigating an applicant for an owner's license under this chapter shall be paid from the application fee paid by the applicant.

(e) An applicant for an owner's license under this chapter must pay all additional costs that are:

(1) associated with the investigation of the applicant; and

(2) greater than the amount of the application fee paid by the applicant.

**(f) The commission shall recoup all the costs associated with investigating or reinvestigating an applicant that is a member of a historic preservation commission described in subsection (a) by imposing a special investigation fee upon the historic preservation commission's licensed operating agent.**

SECTION 25. IC 4-33-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a) This section does not apply to a riverboat located in a historic district described in IC 4-33-1-1(3).**

**(b)** In an application for an owner's license, the applicant must state the dock at which the riverboat is based and the navigable waterway on which the riverboat will operate.

SECTION 26. IC 4-33-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A riverboat that operates in a county described in IC 4-33-1-1(1) or IC 4-33-1-1(2) must:

(1) have a valid certificate of inspection from the United States Coast Guard for the carrying of at least five hundred (500) passengers; and

(2) be at least one hundred fifty (150) feet in length.

**(b) A riverboat that operates on Patoka Lake in a county described under IC 4-33-1-1(3) must:**

(1) have the capacity to carry at least five hundred (500) passengers;

(2) be at least one hundred fifty (150) feet in length; and

(3) meet safety standards required by the commission.

(c) This subsection applies only to a riverboat that operates on the Ohio River. A riverboat must replicate, as nearly as possible, historic Indiana steamboat passenger vessels of the nineteenth century. However, steam propulsion or overnight lodging facilities are not required under this subsection.

SECTION 27. IC 4-33-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. If the

commission determines that a person is eligible under this chapter for an owner's license, the commission may issue an owner's license to the person if:

- (1) the person pays an initial license fee of twenty-five thousand dollars (\$25,000); and
- (2) the person posts a bond as required in section 9 of this chapter.

**However, the historic district described in IC 4-33-1-1(3) or a member of the district's historic preservation commission is not required to pay the fee charged under this section.**

SECTION 28. IC 4-33-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) **Except as provided in subsection (l)**, a licensed owner must post a bond with the commission at least sixty (60) days before the commencement of ~~regular gambling on the riverboat. excursions.~~

(b) The bond shall be furnished in:

- (1) cash or negotiable securities;
- (2) a surety bond:
  - (A) with a surety company approved by the commission; and
  - (B) guaranteed by a satisfactory guarantor; or
- (3) an irrevocable letter of credit issued by a banking institution of Indiana acceptable to the commission.

(c) If a bond is furnished in cash or negotiable securities, the principal shall be placed without restriction at the disposal of the commission, but income inures to the benefit of the licensee.

(d) The bond:

- (1) is subject to the approval of the commission;
- (2) must be in an amount that the commission determines will adequately reflect the amount that a local community will expend for infrastructure and other facilities associated with a riverboat operation; and
- (3) must be payable to the commission as obligee for use in payment of the licensed owner's financial obligations to the local community, the state, and other aggrieved parties, as determined by the rules of the commission.

(e) If after a hearing (after at least five (5) days written notice) the commission determines that the amount of a licensed owner's bond is insufficient, the licensed owner shall upon written demand of the commission file a new bond.

(f) The commission may require a licensed owner to file a new bond with a satisfactory surety in the same form and amount if:

- (1) liability on the old bond is discharged or reduced by judgment rendered, payment made, or otherwise; or
- (2) in the opinion of the commission any surety on the old bond becomes unsatisfactory.

(g) If a new bond obtained under subsection (e) or (f) is unsatisfactory, the commission shall cancel the owner's license. If the

new bond is satisfactorily furnished, the commission shall release in writing the surety on the old bond from any liability accruing after the effective date of the new bond.

(h) A bond is released on the condition that the licensed owner remains at the site for which the owner's license is granted for the lesser of:

(1) five (5) years; or

(2) the date the commission grants a license to another licensed owner to operate from the site for which the bond was posted.

(i) A licensed owner who does not meet the requirements of subsection (h) forfeits a bond filed under this section. The proceeds of a bond that is in default under this subsection are paid to the commission for the benefit of the local unit from which the riverboat operated.

(j) The total and aggregate liability of the surety on a bond is limited to the amount specified in the bond and the continuous nature of the bond may in no event be construed as allowing the liability of the surety under a bond to accumulate for each successive approval period during which the bond is in force.

(k) A bond filed under this section is released sixty (60) days after:

(1) the time has run under subsection (h); and

(2) a written request is submitted by the licensed owner.

**(l) The historic district described in IC 4-33-1-1(3) or a member of the district's historic preservation commission is not required to post the bond required under this section.**

SECTION 29. IC 4-33-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. The commission may revoke a owner's license if:

(1) the licensee begins regular ~~riverboat excursions~~ **operations** more than twelve (12) months after receiving the commission's approval of the application for the license; and

(2) the commission determines that the revocation of the license is in the best interests of Indiana.

SECTION 30. IC 4-33-6-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Unless the owner's license is terminated, expires, or is revoked, the owner's license may be renewed annually upon:

(1) the payment of a five thousand dollar (\$5,000) annual renewal fee; and

(2) a determination by the commission that the licensee satisfies the conditions of this article.

**However, the historic district described in IC 4-33-1-1(3) or a member of the district's historic preservation commission is not required to pay the fee charged under this section.**

(b) A licensed owner shall undergo a complete investigation every three (3) years to determine that the licensed owner remains in compliance with this article.



(c) Notwithstanding subsection (b), the commission may investigate a licensed owner at any time the commission determines it is necessary to ensure that the licensee remains in compliance with this article.

(d) The licensed owner shall bear the cost of an investigation or reinvestigation of the licensed owner and any investigation resulting from a potential transfer of ownership.

**(e) The commission shall recoup all of the costs associated with investigating or reinvestigating a member of a historic preservation commission described in subsection (a) by imposing a special investigation fee upon the historic preservation commission's licensed operating agent.**

SECTION 31. IC 4-33-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) This section applies to:

(1) a county contiguous to the Ohio River;

(2) a county ~~contiguous to Patoka Lake;~~ **having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000);** and

(3) a county contiguous to Lake Michigan that has a population of less than four hundred thousand (400,000).

(b) Notwithstanding any other provision of this article, the commission may not issue a license under this article to allow a riverboat to operate in the county unless the voters of the county have approved the conducting of gambling games on riverboats in the county.

(c) If the docking of a riverboat in the county is approved by an ordinance adopted under section 18 of this chapter, or if at least the number of the registered voters of the county required under IC 3-8-6-3 for a petition to place a candidate on the ballot sign a petition submitted to the circuit court clerk requesting that a local public question concerning riverboat gaming be placed on the ballot, the county election board shall place the following question on the ballot in the county during the next general election:

"Shall licenses be issued to permit riverboat gambling in \_\_\_\_ County?".

(d) A public question under this section shall be placed on the ballot in accordance with IC 3-10-9 and must be certified in accordance with IC 3-10-9-3.

(e) The clerk of the circuit court of a county holding an election under this chapter shall certify the results determined under IC 3-12-4-9 to the commission and the department of state revenue.

(f) If a public question under this section is placed on the ballot in a county and the voters of the county do not vote in favor of permitting riverboat gambling under this article, a second public question under this section may not be held in that county for at least two (2) years. If the voters of the county vote to reject riverboat gambling a second time, a third or subsequent public question under this section may not be

1 held in that county until the general election held during the tenth year  
 2 following the year that the previous public question was placed on the  
 3 ballot.

4 SECTION 32. IC 4-33-6.5 IS ADDED TO THE INDIANA CODE  
 5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 6 UPON PASSAGE]:

7 **Chapter 6.5. Riverboat Operating Agent's License**

8 **Sec. 1. This chapter applies only to a riverboat operated under**  
 9 **a license described in IC 4-33-6-1(a)(6).**

10 **Sec. 2. (a) A person applying for an operating agent's license**  
 11 **under this chapter must pay a nonrefundable application fee to the**  
 12 **commission. The commission shall determine the amount of the**  
 13 **application fee.**

14 **(b) An applicant must submit the following on forms provided**  
 15 **by the commission:**

16 **(1) If the applicant is an individual, two (2) sets of the**  
 17 **individual's fingerprints.**

18 **(2) If the applicant is not an individual, two (2) sets of**  
 19 **fingerprints for each officer and director of the applicant.**

20 **(c) The commission shall review the applications for a license**  
 21 **under this chapter and shall inform each applicant of the**  
 22 **commission's decision concerning the issuance of the license.**

23 **(d) The costs of investigating an applicant for a license under**  
 24 **this chapter shall be paid from the application fee paid by the**  
 25 **applicant.**

26 **(e) An applicant for a license under this chapter must pay all**  
 27 **additional costs that are:**

28 **(1) associated with the investigation of the applicant; and**

29 **(2) greater than the amount of the application fee paid by the**  
 30 **applicant.**

31 **Sec. 3. The commission may not issue an operating agent's**  
 32 **license under this chapter to a person if:**

33 **(1) the person has been convicted of a felony under Indiana**  
 34 **law, the laws of any other state, or laws of the United States;**

35 **(2) the person has knowingly or intentionally submitted an**  
 36 **application for a license under this chapter that contains false**  
 37 **information;**

38 **(3) the person is a member of the commission;**

39 **(4) the person is an officer, a director, or a managerial**  
 40 **employee of a person described in subdivision (1) or (2);**

41 **(5) the person employs an individual who:**

42 **(A) is described in subdivision (1), (2), or (3); and**

43 **(B) participates in the management or operation of**  
 44 **gambling operations authorized under this article;**

45 **(6) the person owns an ownership interest of more than the**  
 46 **total amount of ownership interests permitted under**  
 47 **IC 4-33-6-3.5; or**

48 **(7) a license issued to the person:**

- (A) under this article; or
  - (B) to own or operate gambling facilities in another jurisdiction;
- has been revoked.

**Sec. 4.** In determining whether to grant an operating agent's license to an applicant, the commission shall consider the following:

- (1) The character, reputation, experience, and financial integrity of the following:
  - (A) The applicant.
  - (B) A person that:
    - (i) directly or indirectly controls the applicant; or
    - (ii) is directly or indirectly controlled by the applicant or by a person that directly or indirectly controls the applicant.
- (2) The facilities or proposed facilities for the conduct of riverboat gambling in a historic district described in IC 4-33-1-1(3).
- (3) The highest prospective total revenue to be collected by the state from the conduct of riverboat gambling.
- (4) The good faith affirmative action plan of each applicant to recruit, train, and upgrade minorities in all employment classifications.
- (5) The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.
- (6) If the applicant has adequate capitalization to operate a riverboat for the duration of the license.
- (7) The extent to which the applicant exceeds or meets other standards adopted by the commission.

**Sec. 5.** If the commission determines that a person is eligible under this chapter for an operating agent's license, the commission may issue an operating agent's license to the person if:

- (1) the person pays an initial license fee of twenty-five thousand dollars (\$25,000); and
- (2) the person posts a bond as required in section 6 of this chapter.

**Sec. 6. (a)** A licensed operating agent must post a bond with the commission at least sixty (60) days before the commencement of regular riverboat operations in the historic district described in IC 4-33-1-1(3).

(b) The bond shall be furnished in:

- (1) cash or negotiable securities;
- (2) a surety bond:
  - (A) with a surety company approved by the commission; and
  - (B) guaranteed by a satisfactory guarantor; or
- (3) an irrevocable letter of credit issued by a banking institution of Indiana acceptable to the commission.

(c) If a bond is furnished in cash or negotiable securities, the principal shall be placed without restriction at the disposal of the commission, but income inures to the benefit of the licensee.

(d) The bond:

- (1) is subject to the approval of the commission; and
- (2) must be payable to the commission as obligee for use in payment of the riverboat's financial obligations to the local community, the state, and other aggrieved parties, as determined by the rules of the commission.

(e) If after a hearing (after at least five (5) days written notice) the commission determines that the amount of a licensed operating agent's bond is insufficient, the operating agent shall, upon written demand of the commission, file a new bond.

(f) The commission may require a licensed operating agent to file a new bond with a satisfactory surety in the same form and amount if:

- (1) liability on the old bond is discharged or reduced by judgment rendered, payment made, or otherwise; or
- (2) in the opinion of the commission any surety on the old bond becomes unsatisfactory.

(g) If a new bond obtained under subsection (e) or (f) is unsatisfactory, the commission shall cancel the operating agent's license. If the new bond is satisfactorily furnished, the commission shall release in writing the surety on the old bond from any liability accruing after the effective date of the new bond.

(h) A bond is released on the condition that the licensed operating agent remains at the site of the riverboat operating within a historic district:

- (1) for five (5) years; or
- (2) until the date the commission grants a license to another operating agent to operate from the site for which the bond was posted;

whichever occurs first.

(i) An operating agent who does not meet the requirements of subsection (h) forfeits a bond filed under this section. The proceeds of a bond that is in default under this subsection are paid to the commission for the benefit of the local unit from which the riverboat operated.

(j) The total liability of the surety on a bond is limited to the amount specified in the bond, and the continuous nature of the bond may not be construed as allowing the liability of the surety under a bond to accumulate for each successive approval period during which the bond is in force.

(k) A bond filed under this section is released sixty (60) days after:

- (1) the time specified under subsection (h); and
- (2) a written request is submitted by the operating agent.

Sec. 7. (a) Unless the operating agent's license is terminated,

1 expires, or is revoked, the operating agent's license may be  
2 renewed annually upon:

3 (1) the payment of a five thousand dollar (\$5,000) annual  
4 renewal fee; and

5 (2) a determination by the commission that the licensee  
6 satisfies the conditions of this article.

7 (b) An operating agent shall undergo a complete investigation  
8 every three (3) years to determine that the operating agent remains  
9 in compliance with this article.

10 (c) Notwithstanding subsection (b), the commission may  
11 investigate an operating agent at any time the commission  
12 determines it is necessary to ensure that the licensee remains in  
13 compliance with this article.

14 (d) The operating agent shall bear the cost of an investigation or  
15 reinvestigation of the operating agent.

16 Sec. 8. A license issued under this chapter permits the holder to  
17 operate a riverboat on behalf of the licensed owner of the  
18 riverboat.

19 Sec. 9. An operating agent licensed under this chapter is  
20 charged with all the duties imposed upon a licensed owner under  
21 this article, including the collection and remission of taxes under  
22 IC 4-33-12 and IC 4-33-13.

23 SECTION 33. IC 4-33-9-2, AS AMENDED BY P.L.20-1995,  
24 SECTION 15, AND P.L.55-1995, SECTION 3, IS CORRECTED AND  
25 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:  
26 Sec. 2. (a) **This section does not apply to a riverboat located in a  
27 historic district described in IC 4-33-1-1(3).**

28 (b) Except as provided in subsections ~~(b)~~, (c) and ~~(c)~~, (d), gambling  
29 may not be conducted while a riverboat is docked.

30 ~~(b)~~ (c) If the master of the riverboat reasonably determines and  
31 certifies in writing that:

32 (1) specific weather conditions, water conditions, or traffic  
33 conditions present a danger to the riverboat and the riverboat's  
34 passengers and crew;

35 (2) either the vessel or the docking facility is undergoing  
36 mechanical or structural repair;

37 (3) water traffic conditions present a danger to:

38 (A) the riverboat, riverboat passengers, and crew; or

39 (B) other vessels on the water; or

40 (4) the master has been notified that a condition exists that would  
41 cause a violation of federal law if the riverboat were to cruise;

42 the riverboat may remain docked and gaming may take place until the  
43 master determines that the conditions have sufficiently diminished or  
44 been corrected for the riverboat to safely proceed or the duration of the  
45 authorized excursion has expired.

46 ~~(c)~~ (d) The commission shall by rule permit gambling to be  
47 conducted for periods of not more than thirty (30) minutes during

passenger embarkation and not more than thirty (30) minutes during passenger disembarkation.

SECTION 34. IC 4-33-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. An action to prosecute a crime occurring during a gambling ~~excursion on a riverboat~~ shall be tried in the county of the dock where the riverboat is ~~based~~ **located**."

Page 12, strike lines 41 through 42.

Page 13, strike lines 1 through 21, begin a new line block indented and insert:

**"(1) Three dollars (\$3) of the admissions tax collected for each person counted embarking on the riverboat during the quarter shall be distributed as follows:**

**(A) Twenty-four percent (24%) to the state general fund.**

**(B) Thirty-five percent (35%) to the historic district described in IC 4-33-1-1(3).**

**(C) Twenty-seven percent (27%) to be divided evenly among the counties contiguous to Patoka Lake.**

**(D) Five percent (5%) to a town described in IC 4-33-1-1(3)(C)(i).**

**(E) Five percent (5%) to a town described in IC 4-33-1-1(3)(C)(ii).**

**(F) Two percent (2%) to the tourism commission of a town described in IC 4-33-1-1(3)(C)(i).**

**(G) Two percent (2%) to the tourism commission of a town described in IC 4-33-1-1(3)(C)(ii)."**

Page 13, line 22, delete "(6)" and insert "(2)".

Page 16, line 17, after "Sec. 5." insert **"(a) This subsection does not apply to a riverboat located in a historic district described in IC 4-33-1-1(3)."**

Page 16, between lines 40 and 41, begin a new paragraph and insert:

**"(b) This subsection applies only to a riverboat located in a historic district described in IC 4-33-1-1(3). After funds are appropriated under section 4 of this chapter, each year the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:**

**(1) Twenty-four percent (24%) to the state general fund.**

**(2) Thirty-five percent (35%) to the historic district described in IC 4-33-1-1(3).**

**(3) Twenty-seven percent (27%) to be divided evenly among the counties contiguous to Patoka Lake.**

**(4) Five percent (5%) to a town described in IC 4-33-1-1(3)(C)(i).**

**(5) Five percent (5%) to a town described in IC 4-33-1-1(3)(C)(ii).**

**(6) Two percent (2%) to the tourism commission of a town described in IC 4-33-1-1(3)(C)(i).**

(7) Two percent (2%) to the tourism commission of a town described in IC 4-33-1-1(3)(C)(ii).

**The treasurer of state shall distribute the amounts that are required to be paid under this subsection on a monthly basis.**

SECTION 13. IC 4-33-13-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) Money paid to a unit of local government under this chapter:

(1) must be paid to the fiscal officer of the unit and may be deposited in the unit's general fund or riverboat fund established under IC 36-1-8-9, or both;

(2) may not be used to reduce the unit's maximum or actual levy under IC 6-1.1-18.5; and

(3) may be used for any legal or corporate purpose of the unit, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4.

(b) This chapter does not prohibit the city or county designated as the home dock of the riverboat from entering into agreements with other units of local government in Indiana or in other states to share the city's or county's part of the tax revenue received under this chapter.

**(c) Money paid by the treasurer of state under section 5(b)(6) and 5(b)(7) of this chapter must be used only for the tourism promotion, advertising, and economic development activities of the respective towns.**

SECTION 14. IC 4-33-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

#### **Chapter 16. Gambling Operations in a Historic District**

**Sec. 1. This chapter applies only to a historic district described in IC 4-33-1-1(3) and established under IC 36-7-11-4.5.**

**Sec. 2. As used in this chapter, "district" refers to the historic district established under IC 36-7-11-4.5.**

**Sec. 3. As used in this chapter, "historic preservation commission" refers to the historic preservation commission established under IC 36-7-11-4.5.**

**Sec. 4. As used in this chapter, "operating expenses" means the following:**

(1) Money spent by the historic preservation commission in the exercise of the historic preservation commission's powers under this article, IC 36-7-11-23, and IC 36-7-11-24 as limited by section 5 of this chapter.

(2) Management fees paid to the riverboat's licensed operating agent.

**Sec. 5. A riverboat authorized under this article for a historic district described in IC 4-33-1-1(3) must be located on real property located in the district between the two (2) historic resort hotels.**

**Sec. 6. The commission shall grant an owner's license to the**

1 historic preservation commission upon the fulfillment of the  
2 following requirements:

3 (1) Riverboat gaming is approved in a public question in each  
4 of the towns in which the district is located.

5 (2) The commission completes the investigations required  
6 under IC 4-33-6.

7 Sec. 7. The historic preservation commission shall contract with  
8 another person to operate a riverboat located in the district. The  
9 person must be a licensed operating agent under IC 4-33-6.5.

10 Sec. 8. The net income derived from the riverboat after the  
11 payment of all operating expenses shall be deposited in the  
12 community trust fund established by IC 36-7-11.4-4.

13 Sec. 9. After deducting any tax revenue received under  
14 IC 4-33-12 and IC 4-33-13 that:

15 (1) is expended by the historic preservation commission to  
16 carry out the historic preservation commission's duties and  
17 powers under this article, IC 36-7-11-3, and IC 36-7-11-24; or

18 (2) is pledged to bonds, leases, or other obligations under  
19 IC 5-1-14-4;

20 the historic preservation commission shall deposit the remaining  
21 tax revenue in the community trust fund established by  
22 IC 36-7-11.4-4.

23 Sec. 10. (a) As used in this section, "electronic gaming device"  
24 has the meaning set forth in 68 IAC 1-1-29.

25 (b) As used in this section, "live gaming device" has the meaning  
26 set forth in 68 IAC 1-1-59.

27 (c) The licensed owner of a riverboat located in the historic  
28 district may not install more than five hundred (500) electronic  
29 gaming devices on board the riverboat.

30 (d) This section does not limit the number of live gaming devices  
31 that the licensed owner may install on board the riverboat."

32 Page 173, between lines 9 and 10, begin a new paragraph and insert:  
33 "SECTION 155. IC 36-7-11-4.3 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.3. (a) An  
35 ordinance that establishes a historic preservation commission under  
36 section 4 or 4.5 of this chapter may authorize the staff of the  
37 commission, on behalf of the commission, to grant or deny an  
38 application for a certificate of appropriateness.

39 (b) An ordinance adopted under this section must specify the types  
40 of applications that the staff of the commission is authorized to grant  
41 or deny. The staff may not be authorized to grant or deny an application  
42 for a certificate of appropriateness for the following:

43 (1) The demolition of a building.

44 (2) The moving of a building.

45 (3) The construction of an addition to a building.

46 (4) The construction of a new building.

47 SECTION 156. IC 36-7-11-4.5 IS ADDED TO THE INDIANA



CODE AS A NEW SECTION TO READ AS FOLLOWS  
 [EFFECTIVE UPON PASSAGE]: **Sec. 4.5. (a) This section applies to the following towns located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000):**

**(1) A town having a population of more than one thousand five hundred (1,500) but less than two thousand two hundred (2,200).**

**(2) A town having a population of less than one thousand five hundred (1,500).**

**(b) The towns described in subsection (a) may enter into an interlocal agreement under IC 36-1-7 to establish a joint historic district under this chapter. An ordinance entering into the interlocal agreement must provide for the following membership of a joint historic preservation commission to administer the joint historic district:**

**(1) A member of the town council of a town described in subsection (a)(1).**

**(2) A member of the town council of a town described in subsection (a)(2).**

**(3) The owner of a historic resort hotel located in a town described in subsection (a)(1) or the owner's designee.**

**(4) The owner of a historic resort hotel located in a town described in subsection (a)(2) or the owner's designee.**

**(5) An individual appointed by the Historic Landmarks Foundation of Indiana.**

**(6) An individual who resides in the county described in subsection (a) appointed by the town council of a town described in subsection (a)(1).**

**(7) An individual who resides in the county described in subsection (a) appointed by the town council of a town described in subsection (a)(2).**

**The members described in subdivisions (1) and (2) shall be appointed by the town councils of the respective towns.**

**(c) A member of the commission described in subsection (b)(1) or (b)(2) shall serve for the duration of the member's term of office on the town council. The members described in subsection (b)(5) through (b)(7) shall each serve for a term of three (3) years. However, the terms of the original voting members may be for one (1) year, two (2) years, or three (3) years in order for the terms to be staggered, as provided by the ordinance. A vacancy shall be filled for the duration of the term by the original appointing authority.**

**(d) The ordinance may provide qualifications for members of the commission described in subsection (b)(6) and (b)(7). In addition, the members appointed under subsection (b)(6) and (b)(7) must be residents of the county that are interested in the preservation and development of historic areas. The members of**

1 the commission should include professionals in the disciplines of  
 2 architectural history, planning, and other disciplines related to  
 3 historic preservation, to the extent that those professionals are  
 4 available in the community. The ordinance may also provide for  
 5 the appointment of advisory members that the legislative body  
 6 considers appropriate.

7 (e) Each member of the commission must, before beginning the  
 8 discharge of the duties of the member's office, do the following:

9 (1) Take an oath that the member will faithfully execute the  
 10 duties of the member's office according to Indiana law and  
 11 rules adopted under Indiana law.

12 (2) Provide a bond to the state that:

13 (A) is approved by the Indiana gaming commission;

14 (B) is for twenty-five thousand dollars (\$25,000); and

15 (C) is, after being executed and approved, recorded in the  
 16 office of the secretary of state.

17 (f) The ordinance may:

18 (1) designate an officer or employee of a town described in  
 19 subsection (a) to act as administrator;

20 (2) permit the commission to appoint an administrator who  
 21 shall serve without compensation except reasonable expenses  
 22 incurred in the performance of the administrator's duties; or

23 (3) provide that the commission act without the services of an  
 24 administrator.

25 (g) Members of the commission shall serve without  
 26 compensation except for reasonable expenses incurred in the  
 27 performance of their duties.

28 (h) The commission shall elect from its membership a  
 29 chairperson and vice chairperson, who shall serve for one (1) year  
 30 and may be reelected.

31 (i) The commission shall adopt rules consistent with this chapter  
 32 for the transaction of its business. The rules must include the time  
 33 and place of regular meetings and a procedure for the calling of  
 34 special meetings. All meetings of the commission must be open to  
 35 the public, and a public record of the commission's resolutions,  
 36 proceedings, and actions must be kept. If the commission has an  
 37 administrator, the administrator shall act as the commission's  
 38 secretary. If the commission does not have an administrator, the  
 39 commission shall elect a secretary from its membership.

40 (j) The commission shall hold regular meetings, at least  
 41 monthly, except when it has no business pending.

42 (k) A decision of the commission is subject to judicial review  
 43 under IC 4-21.5-5 as if it were a decision of a state agency.

44 (l) Money acquired by the historic preservation commission:

45 (1) is subject to the laws concerning the deposit and  
 46 safekeeping of public money; and

47 (2) must be deposited under the advisory supervision of the  
 48 state board of finance in the same way and manner, at the

1 same rate of interest, and under the same restrictions as other  
2 state money.

3 **(m) The money of the historic preservation commission and the**  
4 **accounts of each officer, employee, or other person entrusted by**  
5 **law with the raising, disposition, or expenditure of the money or**  
6 **part of the money are subject to the following:**

7 **(1) Examination by the state board of accounts.**

8 **(2) The same penalties and the same provision for publicity**  
9 **that are provided by law for state money and state officers.**

10 SECTION 157. IC 36-7-11-4.6 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.6. An ordinance  
12 that establishes a historic preservation commission under section 4 or  
13 **4.5** of this chapter may:

14 (1) authorize the commission to:

15 (A) acquire by purchase, gift, grant, bequest, devise, or lease  
16 any real or personal property, including easements, that is  
17 appropriate for carrying out the purposes of the commission;

18 (B) hold title to real and personal property; and

19 (C) sell, lease, rent, or otherwise dispose of real and personal  
20 property at a public or private sale on the terms and conditions  
21 that the commission considers best; and

22 (2) establish procedures that the commission must follow in  
23 acquiring and disposing of property.

24 SECTION 158. IC 36-7-11-23 IS ADDED TO THE INDIANA  
25 CODE AS A NEW SECTION TO READ AS FOLLOWS  
26 [EFFECTIVE UPON PASSAGE]: Sec. 23. **(a) This section applies to**  
27 **a historic preservation commission established by section 4.5 of this**  
28 **chapter.**

29 **(b) In addition to the commission's other duties set forth in this**  
30 **chapter, the commission shall do the following:**

31 **(1) Designate a fiscal agent who must be the fiscal officer of**  
32 **one (1) of the towns described in section 4.5(a) of this chapter.**

33 **(2) Employ professional staff to assist the commission in**  
34 **carrying out its duties under this section.**

35 **(3) Engage consultants, attorneys, accountants, and other**  
36 **professionals necessary to carry out the commission's duties**  
37 **under this section.**

38 **(4) Own the riverboat license described in IC 4-33-6-1(a)(6).**

39 **(5) Develop requests for proposals for persons interested in**  
40 **operating and managing the riverboat authorized under**  
41 **IC 4-33 on behalf of the commission as the riverboat's**  
42 **licensed operating agent.**

43 **(6) Recommend a person to the Indiana gaming commission**  
44 **that the historic preservation commission believes will:**

45 **(A) promote the most economic development in the area**  
46 **surrounding the historic district;**

47 **(B) best meet the criteria set forth in IC 4-33-6-4; and**

(C) best serve the interests of the citizens of Indiana.

However, the gaming commission is not bound by the recommendation of the historic preservation commission.

SECTION 159. IC 36-7-11-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) This section applies to a historic preservation commission established by section 4.5 of this chapter.

(b) In addition to the commission's other powers set forth in this chapter, the commission may do the following:

(1) Enter contracts to carry out the commission's duties under section 23 of this chapter, including contracts for the construction, maintenance, operation, and management of a riverboat to be operated in the historic district under IC 4-33.

(2) Provide recommendations to the Indiana gaming commission concerning the operation and management of a riverboat to be operated in the historic district under IC 4-33.

(c) This section may not be construed to limit the powers of the Indiana gaming commission with respect to the administration and regulation of riverboat gaming under IC 4-33.

SECTION 160. IC 36-7-11.4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

#### **Chapter 11.4. Community Trust Fund**

Sec. 1. This section applies to a historic district established by IC 36-7-11-4.5.

Sec. 2. As used in this chapter, "fund" refers to the community trust fund established by section 4 of this chapter.

Sec. 3. As used in this chapter, "historic preservation commission" refers to the historic preservation commission described in IC 36-7-11-4.5.

Sec. 4. (a) The community trust fund is established.

(b) The fund consists of the following:

(1) Money disbursed from the historic preservation commission.

(2) Donations.

(3) Interest and dividends on assets of the fund.

(4) Money transferred to the fund from other funds.

(5) Money from any other source.

Sec. 5. (a) The historic preservation commission shall manage and develop the fund and the assets of the fund.

(b) The historic preservation commission shall do the following:

(1) Establish a policy for the investment of the fund's assets.

(2) Perform other tasks consistent with prudent management and development of the fund.

Sec. 6. (a) Subject to the investment policy of the historic preservation commission, the fiscal agent appointed by the historic preservation commission shall administer the fund and invest the

1 money in the fund.

2 (b) The expenses of administering the fund and implementing  
3 this chapter shall be paid from the fund.

4 (c) Money in the fund that is not currently needed to meet the  
5 obligations of the fund may be invested in the same manner as  
6 other public funds are invested. Interest that accrues from these  
7 investments shall be deposited in the fund.

8 (d) Money in the fund at the end of a state fiscal year does not  
9 revert to the state general fund.

10 Sec. 7. (a) The historic preservation commission has the sole  
11 authority to allocate money from the fund for the following  
12 purposes:

13 (1) The preservation, restoration, maintenance, operation,  
14 and development of a historic resort hotel located in a town  
15 described in IC 36-7-11-4.5(a)(1).

16 (2) The preservation, restoration, maintenance, operation,  
17 and development of a historic resort hotel located in a town  
18 described in IC 36-7-11-4.5(a)(2).

19 (3) Infrastructure projects and other related improvements in  
20 the surrounding community.

21 (b) Money allocated under subsection (a)(1) and (a)(2) must be  
22 divided equally between the historic resort hotels described in  
23 subsection (a).

24 Sec. 8. The historic preservation commission shall prepare an  
25 annual report concerning the fund and submit the report to the  
26 legislative council before October 1 of each year. The report is a  
27 public record."

28 Page 222, between lines 17 and 18, begin a new paragraph and  
29 insert:

30 "SECTION 172. THE FOLLOWING ARE REPEALED  
31 [EFFECTIVE UPON PASSAGE]: IC 4-33-4-19; IC 4-33-15."

32 Renumber all SECTIONS consecutively.

(Reference is to EHB 1001(ss) as printed June 13, 2002.)

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Senator HUME